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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/536,655

12/29/2005

Bayer

AP10588

9085

7590
Gerlinde M Nattler
Craig Hallacher
Continental Teves Inc
One Continental Drive
Auburn Hills, MI 48326

01/25/2008

EXAMINER

LE, DAVID D

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/536,655	Applicant(s) BAYER ET AL.	
	Examiner David D. Le	Art Unit 3681	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20,28 and 32-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20,28 and 32-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is the second Office action on the merits of Application No. 10/536,655, filed 29 December 2005. Claims 20, 28, and 32-35 are pending.

Documents

2. The following documents have been received and filed as part of the patent application:
- Foreign Priority Document, received on 05/27/05
 - Information Disclosure Statement, received on 05/27/05
 - Declaration and Power of Attorney, received on 12/29/05

Oath/Declaration

3. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because it fails to include the all eight inventors, as indicated in the Application Data Sheet, filed on 27 May 2005. The following inventors have been excluded from the present declaration, filed on 29 December 2005:

- Wilfried Synovzik;
- Markus Kummel; and
- Andreas Margander.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. **Claims 20, 33 and 34 are rejected under 35 U.S.C. 102(e) as being anticipated by U.**

S. Patent Application Publication No. US 2004/0069086 A1 to Thoma (hereinafter referred to as Thoma).

Claims 20, 33 and 34:

Thoma (Figs. 1-4; paragraphs [0006] – [0023]) discloses a gear arrangement comprising:

- At least a first plastic gear (i.e., Fig. 4, element 20 or 24);
- A second metal gear (i.e., Fig. 4, element 22);
- Wherein the first plastic gear (20 or 24) and the second metal gear (22) are arranged coaxially on a common planetary carrier (i.e., Fig. 4, element 26);
- Wherein the first plastic gear (20 or 24) inherently has a softer surface than the second metal gear (22); and
- Wherein the second planet gear (22) inherently comes into engagement after a specific elastic deformation of the first planet gear (20 or 24).

Note:

Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 28, 32 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over U. S. Patent No. 6,117,036 to Lanzon et al. (hereinafter referred to as Lanzon) in view of Thoma.**

Claims 28, 32 and 35:

Lanzon (i.e., Figs. 1-4; column 2, line 36 – column 5, line 26) discloses a planetary gear assembly comprising:

- A first sun gear (i.e., Fig. 2, element 74);
- A second sun gear (i.e., Fig. 2, element 100);
- A first planet gear (i.e., Fig. 2, element 78);
- A second planet gear (i.e., Fig. 2, element 106);

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- Wherein the first and second planet gears are arranged coaxially on a common planetary carrier (i.e., Fig. 2, element 82);
- Wherein the first and second planet gears have support bearings (i.e., Fig. 2, elements 80a and 80b); and
- Wherein the first planet gear is offset radially from the second planet gear by a positive profile displacement (i.e., column 4, lines 25-30).

Lanzon lacks:

- wherein the first planet gear is made of plastic and the second planet gear is made of metal.

Thoma (Figs. 1-4; paragraphs [0006] – [0023]), on the other hand, discloses a gear arrangement comprising:

- At least a first plastic gear (i.e., Fig. 4, element 20 or 24);
- A second metal gear (i.e., Fig. 4, element 22);
- Wherein the first plastic gear (20 or 24) and the second metal gear (22) are arranged coaxially on a common planetary carrier (i.e., Fig. 4, element 26); and
- Wherein the first plastic gear (20 or 24) inherently has a softer surface than the second metal gear (22).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lanzon such that the first planet gear is made of plastic

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and the second planet gear is made of metal, in view of Thoma, in order to render the planetary gear assembly as quiet as possible (i.e., Thoma, abstract).

Also, all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

Response to Arguments

8. Applicant's arguments with respect to claims 20, 28, and 32-35 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to David D. Le whose telephone number is 571-272-7092. The examiner can normally be reached on Mon-Fri (0700-1530).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David D. Le/
Primary Examiner
Art Unit 3681
01/21/2008

ddl